

ENROLLED ORDINANCE 161-5

WAIVE RENEGOTIATION OF EXISTING AGREEMENTS AFFECTING THE
ONYX EMERALD PARK LANDFILL AND THE ONYX EMERALD
PARK LANDFILL WESTERN HORIZONTAL EXPANSION

WHEREAS, on or about December 23, 2005, Onyx Emerald Park, LLC submitted an Initial Site Report for the Onyx Emerald Park Landfill Western Horizontal Expansion; and

WHEREAS, the Onyx Emerald Park Landfill (formerly known as the Emerald Park Landfill and the Superior Emerald Park Landfill) is a solid waste disposal facility located within the City of Muskego, Waukesha County, Wisconsin; and

WHEREAS, Onyx Emerald Park Landfill, LLC, a domestic limited liability company, is the current owner of the Onyx Emerald Park Landfill; and

WHEREAS, the City of Muskego, Waukesha County, City of Franklin, Town of Norway, and Racine County each constitute an "Affected Municipality" under Wis. Stat. § 289.01(1); and

WHEREAS, the Onyx Emerald Park Landfill is licensed by the Wisconsin Department of Natural Resources ("WDNR") under WDNR License No. 3290 pursuant to Chapter 289 of the Wisconsin Statutes; and

WHEREAS, the Onyx Emerald Park Landfill is further subject to multiple agreements, to wit: the Interim Construction Agreement, Stipulation as to Agreed Upon Issues as to Negotiated Agreement, the Arbitration Award of the Wisconsin Waste Facilities Siting Board, the Settlement Agreement and Mutual Release in Case No. 99 CV 1476, and the January 20, 2000 Letter of Understanding regarding City of Muskego v. Superior Emerald Park Landfill, Inc. (all of which are collectively referred to herein as the "Agreement"); and

WHEREAS, the Agreement arises out of, and is related to, an expansion of the Onyx Emerald Park Landfill; and

WHEREAS, the Agreement was ultimately concluded on or about March 13, 2000 after approximately two years of contentious litigation; and

WHEREAS, the aforementioned Stipulation as to Agreed Upon Issues as to Negotiated Agreement and the Negotiated Agreement incorporated therein (the "Negotiated Agreement") was entered into under Wis. Stat. § 289.33(9)(g); and

WHEREAS, Paragraph 27 of the Negotiated Agreement (attached hereto and incorporated by reference as Exhibit A) expressly grants the Affected Municipalities the option to waive negotiations for future expansions and thereby make applicable all terms and rate schedules for compensation set forth in the Negotiated Agreement; and

WHEREAS, Paragraph 27 provides that the Affected Municipalities shall have six months from the date of receiving the Initial Site Report to make said waiver election; and

WHEREAS, the Waukesha County Board of Supervisors has carefully considered the Initial Site

Report as it relates to the future operation of the Onyx Emerald Park Landfill, the Agreement, and the commercial benefit and health, safety, and welfare of the public; and

WHEREAS, the Waukesha County Board of Supervisors hereby finds that waiver of its right to renegotiate the Agreement is in the best interests of, and will promote, the commercial benefit and the health, safety, and welfare of the public.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Waukesha County shall, and hereby does, elect to exercise its option pursuant to paragraph 27 of the Negotiated Agreement to waive renegotiation of the Onyx Emerald Park Landfill Western Horizontal Expansion and thereby make applicable all terms and rate schedules for compensation set forth in the Agreement.

BE IT FURTHER ORDAINED THAT THE Director of the Parks and Land Use Department is authorized to notify Onyx Emerald Park of the decision of Waukesha County pursuant to this ordinance.

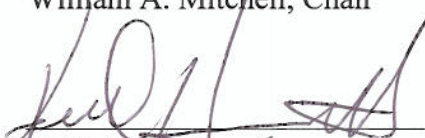
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ONYX EMERALD PARK LANDFILL AND THE ONYX EMERALD
PARK LANDFILL WESTERN HORIZONTAL EXPANSION

Presented by:
Land Use, Parks and
Environment Committee


Approved by:
Finance Committee


William A. Mitchell, Chair


Patricia A. Haukohl, Chair

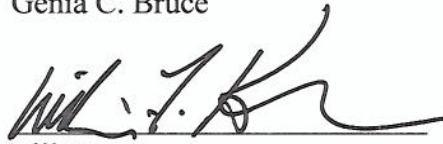

Keith Hammitt


Donald M. Broesch

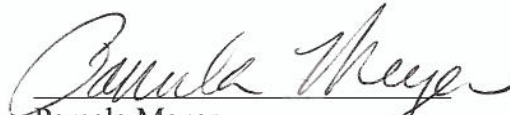

Keith Harenda


Genia C. Bruce

Absent
Pauline T. Jaske

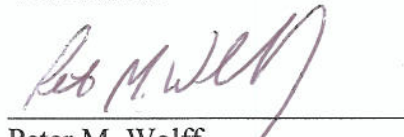

Bill Kramer


Walter L. Kolb


Pamela Meyer



Vera Stroud


Ted Rolfs


Peter M. Wolff

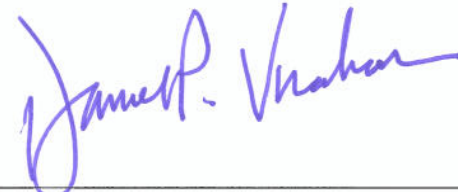

Rodell L. Singert

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 5/26/06, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 6-01-06, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-05/23/06

(ORD) NUMBER-1610005

1 K. HERRO.....AYE
3 T. ROLFS.....AYE
5 J. MARCHESE.....AYE
7 J. JESKEWITZ.....AYE
9 P. HAUKOHL.....AYE
11 K. HARENDA.....AYE
13 J. MORRIS.....AYE
15 D. SWAN.....AYE
17 J. BEHREND.....AYE
19 W. MITCHELL.....AYE
21 W. KOLB.....AYE
23 J. TORTOMASI.....AYE
25 K. CUMMINGS.....AYE
27 D. PAULSON.....AYE
29 T. BULLERMANN.....AYE
31 V. STROUD.....AYE
33 K. HAMMIT.....AYE
35 P. MEYER.....AYE

2 R. THELEN.....AYE
4 R. HUTTON.....AYE
6 D. BROESCH.....AYE
8 J. DWYER.....AYE
10 S. WOLFF.....AYE
12 T. SCHELLINGER....AYE
14 A. KALLIN.....AYE
16 R. STEVENS.....AYE
18 B. MORRIS.....AYE
20 P. WOLFF.....AYE
22 G. BRUCE.....AYE
24 B. KRAMER.....AYE
26 F. RUF.....AYE
28 P. JASKE.....AYE
30 K. NILSON.....AYE
32 P. GUNDRUM.....AYE
34 R. SINGERT.....AYE

TOTAL AYES-35

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-35